

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

RUBIN C. SLADE, JR.,

Petitioner,

v.

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CIVIL ACTION NO. 2:09CV72
CRIMINAL ACTION NO. 2:03CR1
(Judge Keeley)

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On June 16, 2009, the pro se petitioner, Rubin C. Slade, Jr. ("Slade"), filed a motion to vacate, set aside, or correct sentence by a person in federal custody under 28 U.S.C. § 2255. The Court referred this matter to United States Magistrate Judge David J. Joel for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation 83.09.

Pursuant to Hill v. Braxton, 277 F.3d 701, 707 (4th Cir. 2002), on July 9, 2009, the magistrate judge sent Slade a notice warning him that his motion was subject to dismissal as untimely under the one-year statute of limitations set forth in the Anti-Terrorism and Effective Death Penalty Act of 1996. See 28 U.S.C. § 2255(f). Following that, on September 2, 2009, the magistrate judge issued a Report and Recommendation ("R&R"), in which he recommended that Slade's motion to vacate, set aside, or correct sentence by a person in federal custody under § 2255 be denied.

ORDER ADOPTING REPORT AND RECOMMENDATION

The R&R also specifically warned Slade that failure to object to the recommendation within ten days of his receipt of the R&R would result in the waiver of any appellate rights he might have on this issue. Slade, however, never filed any objections.¹

The Court, therefore, **ADOPTS** the Report and Recommendation of Magistrate Judge Joel in its entirety (dkt. no. 127), **DENIES** Slade's motion to vacate, set aside, or correct sentence by a person in federal custody under § 2255 (dkt. no. 121), and **ORDERS** the case **DISMISSED WITH PREJUDICE** and stricken from the Court's docket.

It is so **ORDERED**.

The Court directs the Clerk to transmit a copy of this Order to counsel of record, and to mail a copy to the pro se petitioner, certified mail, return receipt requested.

Dated: March 1, 2010.

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE

¹ The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); and Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).